

REMARKS

The Examiner acknowledges making of record the amendment filed on July 8, 2008 in response to the final rejection, in which claim 1 was amended to incorporate the limitations of claim 6. Claims 10 and 15 are currently amended and claim 6 has been cancelled.

Claims 2-5 and 7-9 are dependent upon claim 1. Claims 1-5 and 7-20 are acknowledged as pending.

The rejection of claims 1-5 and 7-9 under 35 USC 103(a) as being unpatentable over Nel (2001/0002468) in view of Alberth et al (7,206,847) and further in view of Yoshida (2002/0040340) is respectfully traversed.

Claim 1, as previously amended, includes the limitations of claim 6 and now specifically requires the credit card usage information to include information involving a payment deadline for the credit card used for making purchases with the second data processing device further comprising an input unit for specifying the billing month for the credit card and with the storage unit of the second data processing device storing balance data for the settlement account, wherein the processor of the second data processing device includes means for calculating the total of payment amounts included within the payment deadline in the billing month specified using the input unit, comparing the total of payment amounts included within the payment deadline if the settlement amount due from the settlement

account can be debited.

The Examiner alleges that Nel teaches a data processing system "comprising a portable storage device independent of the credit card used to make a credit card purchase having a rewritable nonvolatile memory unit for storing credit card usage information of purchase transactions by the credit card user for each of said one or more credit cards" and refers to page 4, paragraph [0096] in Nel to support this. To the contrary, we can find no support in Nel on page 4, paragraph [0096] which teaches a portable storage device independent of the credit card used.... for storing credit card usage information, etc as specified in claim 1. Nel teaches a single smart card to be used for placement into the ATM machine which does not imply or suggest a portable storage device independent of the credit card used. The portable storage device in Nel is not independent of the credit card used as is called for in claim 1. Instead, in Nel, the user must use a separate portable storage device for each credit card. In fact, the Examiner admits that Nel does not teach this and relies instead upon the teaching of Alberth which relate to an entirely different system which is not at all compatible with the ATM machine of Nel. Alberth, Jr. requires a two piece smart card device which is not contemplated in Nel nor in the subject application.

The Examiner then proceeds to compare the settlement data processing device of claim 1 with the teaching in Nel of processors that interact with the ATM machine to verify user identity and the financial institution which confirms identify.

The second data processing device of claim 1 requires a device to be under the control of the credit card user and to comprise a processor for running a read process to read card usage information for each credit card written to the portable storage device. The Examiner interprets the words "under the control of the credit card user" as being satisfied by the user having possession of the credit card. Possession of a credit card does not place the credit card user in control of the second data processing device. If so, simply transferring the card from one user to another would transfer control which is clearly inconsistent with the plain meaning of the term "control" as used in claim 1 and is clearly inconsistent with the operation of an ATM machine in Nel or in general.

In addition, the Examiner admits that Nel does not explicitly show card usage information to include a payment deadline for the credit card used for making purchases. Instead, the Examiner is relying upon Yoshida which the Examiner alleges shows "wherein the card usage information includes the payment deadline for the credit card used for purchases" and refers to the Abstract and to paragraphs [0013], [0014], [0039], [0046] and [0065] in Yoshida. The Examiner also indicates that the same paragraphs in Yoshida show the second data processing device as further comprising an input unit for specifying a billing month for the credit card. To the contrary, not one of these paragraphs in Yoshida supports this allegation. None refer to or specify a billing month for any credit card much less any need for specifying a billing month. Since there is no explicit teaching in Yoshida for specifying a billing month for the credit card, the Examiner is not at liberty to create

assumptions which are not directly supported in Yoshida and then to rely upon such assumptions as being fact. To the contrary, the paragraphs referred to by the Examiner in Yoshida teach the concept of confirming payment by a deadline without any reference to billing months. This has nothing to do with the requirement of claim 1 in the last paragraph which recites means for calculating the total of payment amounts included within the payment deadline in the billing month specified much less for comparing the total of the payment amount included within the payment deadline in the specified billing month with the account balance, none of which is taught or suggested in Yoshida. The Examiner is making assumptions which are incorrect and using inaccurate assumptions as fact.

The Examiner thereafter relies upon Nel as teaching that the "storage unit of the second data processing device further stores balance data for the settlement account" referring to the paragraph [0096] in Nel. In fact, paragraph [0096] does not teach that the second data processing device stores balance data for the settlement account. Instead, Nel, in paragraph [0106] teaches that the system verifies the validity of the transaction, for instance, to check for sufficient balance in the account for making the transaction payment but if the selected account has insufficient funds, the purchaser may then optionally select another account to use and if the purchaser possesses insufficient funds in all of his or her credit card accounts to complete the transaction, the system software will abort the entire verification procedure. Accordingly, Nel does not teach or suggest storing balance data for each credit card used and also does not teach the means recited in the last paragraph of claim 1, for

calculating the total of payment amounts included within the payment deadline in the billing month specified using the input unit and does not teach means for comparing the total of the payment amounts included within the payment deadline in the specified billing month and does not teach means for determining and reporting if the settlement amount due from the settlement account can be debited. Instead, Nel simply aborts the entire verification procedure if insufficient balance exists for the payment amounts relative to the account specified.

Clearly the Examiner has misinterpreted the teaching of Nel and has made inaccurate assumptions from the teaching of Yoshida in reaching incorrect conclusions which the Examiner then combines in alleging a conclusion not based on fact but on supposition.

On page 24 of the Official Action, the Examiner responds to applicants arguments referring to the paragraph [0106] in Nel which, as indicated above, does not teach specifying a deadline in a billing month. In fact, Nel makes no reference whatsoever to a statement for a billing month. If the Examiner believes otherwise, the Examiner should point to the lines in paragraph [0106] of Nel which teaches an input unit for specifying a billing month for the credit card. Moreover, Nel does not teach the means required in the last paragraph of claim 1 for calculating the total of payment amounts included within the payment deadline in the billing month specified or for comparing the total of payment amounts included within the payment deadline or for reporting etc.

As explained above, paragraph [0106] in fact teaches aborting the verification procedure when an insufficient balance exists for the payment amounts which is totally unrelated to billing months and is nothing more than a procedure of verification to determine whether there is enough money available to pay the outstanding balance.

The Examiner has indicated that to traverse a finding, applicant must submit concrete evidence. We have, in fact, submitted concrete evidence in Nel and Yoshida which proves that the alleged findings of the Examiner are in fact only assumptions which are contrary to the teaching in each reference.

Accordingly, for all of the above reasons, claim1 as amended, is clearly patentable over the cited references Nel, Alberth Jr. et al and Yoshida, taken individually or in combination.

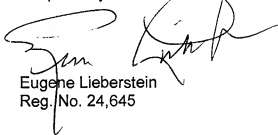
The Examiner's rejection to claims 10-20 under 35 USC 103(a) as being unpatentable over Nel in view of Alberth Jr. is respectfully traversed.

Applicant has amended claims 10 and 15 to make it clear that the transaction management process is created under the sole control of the card user and is run or implemented in the portable storage device. Under no circumstance can the ATM machine in Nel be interpreted to permit operation of a transaction management process created under the sole control of a card user. Moreover, as explained relative to claim 1, Nel does not teach a portable storage device being independent

of the credit cards used.

For all of the above reasons, reconsideration and allowance of claims 1-5 and 7-20 is respectfully requested.

Respectfully submitted,



Eugene Lieberstein
Reg. No. 24,645

Customer # 79681
BAKER & HOSTETLER LLP
45 Rockefeller Plaza
New York, NY 10111
Tel: 212-589-4634
Fax: 212-589-4201

MAILING CERTIFICATE

I hereby certify that this correspondence is being sent to the USPTO via EFS Web to the Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450, on November 3, 2008.



Audrey DeSouza